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Joint Inspection Unit

Review of the management and administration of the Office of the United Nations High Commissioner for Human Rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly his comments on the recommendations contained in the report of the Joint Inspection Unit entitled "Review of the management and administration of the Office of the United Nations High Commissioner for Human Rights" (JIU/REP/2014/7).

* A/70/50.

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I. Introduction

1. In its resolution 22/2, the Human Rights Council requested the Joint Inspection Unit to undertake a comprehensive follow-up review of the management and administration of the Office of the United Nations High Commissioner for Human Rights, in particular with regard to its impact on the recruitment policies and the composition of the staff, and to submit a report thereon and containing concrete proposals for the implementation of the resolution to the Council. The General Assembly, in its resolution 68/144, took note of the report of the Council on its seventh organizational meeting and twenty-second and twenty-third sessions (A/68/53), which contains resolution 22/2.

2. The Secretary-General appreciates the collaborative approach undertaken by the Joint Inspection Unit in the preparation of its report. In particular, the Secretary-General appreciates the observations contained in the report regarding certain long-term challenges facing the Office of the United Nations High Commissioner for Human Rights (OHCHR), such as financial sustainability in the context of increasing mandates from legislative bodies, expanding demands in connection with the Human Rights Up Front initiative, the mainstreaming of human rights across the United Nations system and the emphasis on human rights in the post-2015 development agenda.

II. Specific comments on recommendations

Recommendation 1: The General Assembly should initiate an action-oriented review of the governance arrangements of OHCHR, through an open-ended working group or an open-ended ad hoc committee with a definite time frame and an agreed agenda, to review the governance framework and recommend measures for improvement so as to strengthen the capacity of Member States to provide strategic guidance and direct and monitor the work of OHCHR.

3. The Secretary-General concurs with the view of many Member States, as noted in the report of the Joint Inspection Unit, that existing governance arrangements strike an appropriate balance between independence and accountability. Most importantly, existing governance arrangements are consistent with the legislative decisions of the General Assembly. The present note seeks to respond to key issues raised in the section of the report on governance and oversight by Member States.

4. The Secretary-General would like to recall that, by its resolution 48/141, the General Assembly decided to create the post of the United Nations High Commissioner for Human Rights, decided that the High Commissioner would be appointed by the Secretary-General, be approved by the Assembly and be of the rank of Under-Secretary-General. By the same resolution, the Assembly decided that the High Commissioner would be the United Nations official with principal responsibility for United Nations human rights activities under the direction and authority of the Secretary-General. The Assembly also decided that OHCHR would be located at Geneva and requested the Secretary-General to provide appropriate staff and resources to enable the High Commissioner to fulfil his/her mandate.

5. It is clear from the resolution that the mandate is to be fulfilled by both the High Commissioner and OHCHR. There is no indication in the resolution that the

High Commissioner and OHCHR have separate mandates and perform different functions or that the mandate set out in the resolution is not assigned to, and to be discharged by, OHCHR.

6. The organization of OHCHR is further elaborated in Secretary-General's bulletin ST/SGB/1997/10, on the organization of the Office of the United Nations High Commissioner for Human Rights. The bulletin indicates, in section 2.3, that OHCHR is to be headed by a High Commissioner with the rank of Under-Secretary-General and, in section 3, that the High Commissioner is accountable to the Secretary-General and is responsible for all the activities of OHCHR, as well as for its administration. Thus, in accordance with the bulletin, the High Commissioner and the Office have the same mandate and perform the same functions.

7. The General Assembly deliberated on the Secretary-General's bulletin during its fifty-second session (see A/52/584, paras. 23-26), while considering the report of the Secretary-General entitled "Renewing the United Nations: a programme for reform" (A/51/950). Member States made detailed statements regarding the proposed reform programme, including in relation to the Secretary-General's bulletin.[1] In their statements, Member States raised neither doubts nor questions as to whether the High Commissioner was part of the Office or whether the High Commissioner and the Office had separate mandates and performed different functions.

8. Subsequently, in its resolution 52/12 A, the General Assembly commended the reform initiatives of the Secretary-General and called upon the Secretary-General to implement the actions described in his report (A/51/950), which included action 14, according to which the reorganization of the human rights secretariat was to be fully implemented. Under the new High Commissioner for Human Rights, both offices would be consolidated into a single unit, to be called the Office of the United Nations High Commissioner for Human Rights.

9. The suggestion of the Joint Inspection Unit in its report that the High Commissioner and OHCHR are distinct entities, the former with an independent mandate and the latter lacking such a mandate, is therefore not consistent with the relevant General Assembly resolutions and Secretary-General's bulletin ST/SGB/1997/10. In resolution 48/141, the Assembly explicitly requested the Secretary-General to provide the appropriate resources to enable the High Commissioner to fulfil his/her mandate. In resolution 52/12 A, the Assembly endorsed the merging of OHCHR and the Centre for Human Rights, as one Office, headed by the High Commissioner, accountable to the Secretary-General and forming part of the United Nations Secretariat. The establishment of OHCHR as part of the Secretariat is also consistent with the establishment and functioning of previous Secretariat human rights entities, namely, the Division of Human Rights and the Centre for Human Rights. There is also no legislative basis for the Office to have a "dual role", with its responsibilities divided between supporting the High Commissioner and serving as the secretariat of the United Nations human rights mechanisms.

10. It is important to bear in mind that the General Assembly did not contemplate a separate governance structure for OHCHR. As far as the responsibility to deal with the administrative and budgetary matters of OHCHR is concerned, the

[1] See A/52/661, A/52/662, A/52/663 and A/52/664.

Secretary-General, as the Chief Administrative Officer of the Organization, is responsible for the Organization's programme planning and budgeting, including for OHCHR. The intergovernmental organs vested with the responsibility to exercise oversight over the administrative and budgetary matters of the Secretariat, including OHCHR, are the General Assembly and the relevant subsidiary organs, namely, the Fifth Committee, the Advisory Committee on Administrative and Budgetary Questions and the Committee for Programme and Coordination. In its report, the Joint Inspection Unit affirms that most Member States agree that the oversight of budgetary, financial and administrative matters rests with the Fifth Committee. It also affirms that, through the Committee for Programme and Coordination, there is oversight of programme matters. That oversight ensures transparency and accountability, while also respecting the independence of the Secretariat, including that of OHCHR.

11. In its report, the Joint Inspection Unit acknowledges that Member States have not sought to review or further explicate the existing governance arrangements of OHCHR. In that regard, the Unit, in paragraph 41 of its report, states that OHCHR and many Member States view General Assembly resolutions 48/141, by which the Assembly established the post of the United Nations High Commissioner for Human Rights, and 60/251, by which the Assembly established the Human Rights Council, as precluding any administrative, financial or even programmatic oversight over the Office by the Commission on Human Rights and its successor body, namely, the Human Rights Council.

12. The Secretary-General supports the call made by the Joint Inspection Unit in paragraph 72 of its report for greater interaction by the High Commissioner with Member States to continue,[2] including within the framework of the statements issued by the President of the Human Rights Council. Such interaction not only reinforces existing governance arrangements, it also ensures that Member States have abundant opportunities to express their views with regard to overall strategic guidance and priorities and the concomitant allocation and utilization of resources. In addition, it ensures that the High Commissioner has sufficient opportunities to consult with Member States in relation to how he/she intends to fulfil his/her obligations in compliance with General Assembly resolution 48/141.

Recommendation 2: The High Commissioner should establish/finalize, by the end of 2016, and regularly update thereafter, a risk management policy for OHCHR, comprising all the elements of a comprehensive risk management framework, and report annually to the governing bodies on its implementation.

13. As part of a comprehensive accountability framework, a Secretariat-wide risk assessment was initiated in 2013, and subsequent consultations were conducted with senior management across the Secretariat to prioritize the risk areas initially identified. A joint meeting of the Policy Committee and the Management Committee, held in September 2014, resulted in the adoption of a preliminary risk register that summarizes the top strategic risks for the Organization, the implementation of relevant risk response strategies and the governance structure for the process. The register is currently being refined in Secretariat-wide working groups addressing risk management, with a view to establishing a detailed enterprise risk management plan.

[2] See A/HRC/PRST/15/2, A/HRC/PRST/18/2 and A/HRC/PRST/19/1.

14. Pursuant to resolution 68/264, further details on the process were set out in the fourth progress report on the accountability system in the United Nations Secretariat (A/69/676).

15. In his fourth progress report, the Secretary-General underlines that a fully fledged enterprise risk management system is currently being developed for the Secretariat and that OHCHR is actively participating in the initiative.

Recommendation 3: The High Commissioner should establish a working group, composed of the Senior Management Team and other senior staff as necessary, to review the OHCHR strategic planning process(es) in consultation with other relevant departments as necessary, and submit to the General Assembly, through the Secretary-General, the report of the working group, for its consideration by no later than the seventy-first session of the Assembly.

16. The OHCHR strategic framework, programme budget and programme of work are formulated within the framework of the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation and the Financial Regulations and Rules of the United Nations. The planning, programming and budget process of OHCHR is undertaken in strict adherence to the Charter of the United Nations, in particular Articles 17 and 18, with full respect for the prerogatives of the principal organs of the United Nations, full respect for the authority and the prerogatives of the Secretary-General as the Chief Administrative Officer of the Organization and in recognition of the need for Member States to participate in the determination of the budget. The biennial strategic framework and the biennial programme budget cover all the activities of OHCHR, both substantive and servicing, including those to be financed partially or fully from extrabudgetary resources.

17. In its report, the Joint Inspection Unit does not provide evidence of actual problems linked to OHCHR strategic planning processes; rather, it appears to identify the potential for problems. At the same time, the Unit acknowledges improvements achieved by OHCHR in terms of results-based management. It further acknowledges that such improvements, which have been recognized by Member States, would not have been possible had OHCHR limited itself to using the existing strategic framework and the Integrated Monitoring and Documentation Information System (IMDIS).

18. Additional consideration could have been given to an earlier report of the Joint Inspection Unit on strategic planning in the United Nations (JIU/REP/2012/12). In that report, the Unit highlighted the difficulties faced by the Secretariat in seeking to implement results-based management. It commented positively on the system that OHCHR has developed to plan, monitor and report on implementation (ibid., paras. 185-187). Further, it observed the fact that double planning and monitoring had become a common practice across the Secretariat. In that regard, the issue should not merit focused attention in relation to OHCHR.

19. In addition, the Joint Inspection Unit could have taken into consideration ongoing efforts led by Member States to review and improve the United Nations programme planning and budgetary process.[3]

20. It is in that context that the Secretary-General believes that it is unnecessary to establish a senior-level working group to review, in consultation with other departments, the OHCHR strategic planning process and to report thereon to the General Assembly.

Recommendation 4: The High Commissioner should update, by the end of 2015, the existing action plan with specific measures, targets and timetables to broaden the geographical diversity of the professional workforce, and continue to report annually to the Human Rights Council and to the General Assembly on its implementation.

21. The Secretary-General notes that a comprehensive and proactive action plan reflecting a strong and continuous commitment by OHCHR management to improve the geographic diversity of the Office's staff has been put in place in 2006 (see E/CN.4/2006/103) and has yielded positive results ever since. Any updates to measures, targets and timetables to broaden the geographic diversity would, however, have to be in line with the General Assembly-mandated system of desirable ranges. In that regard, the Secretary-General noted that a broader geographic diversity among the staff is a priority concern for the entire Secretariat and accordingly that targets for recruitment of unrepresented and underrepresented nationalities are applied to the Secretariat as a whole and are included in the senior manager compacts with the Secretary-General. OHCHR will nevertheless consult with the Office of Human Resources Management to determine whether any additional targets or measures may be feasible within the existing system.

22. The Secretary-General notes that the High Commissioner reports independently to the Human Rights Council and to the General Assembly on matters related to geographic diversity, upon request. In response to the most recent such request of the Human Rights Council, contained in resolution 22/2, the High Commissioner submitted a report on the composition of the staff of OHCHR (A/HRC/27/18). In response to the request of the General Assembly in resolution 62/236, the Secretary-General submitted a report on measures to improve the balance in the geographical distribution of the staff in the Office of the United Nations High Commissioner for Human Rights (A/63/204).

23. In his most recent report on the subject, entitled "Composition of the Secretariat: staff demographics" (A/69/292), the Secretary-General includes information on the composition of the staff of OHCHR.

Recommendation 5: The High Commissioner should develop, by no later than the end of 2016, a comprehensive strategy and related action plan to adapt to the specific circumstances and requirements of OHCHR the Secretariat's human resources management strategy and policies; he/she should inform the governing bodies of the adoption of the strategy and action plan, update them regularly as necessary, and report to the governing bodies periodically on their implementation.

[3] See "Because process matters: groundwork for a reform of planning and budgeting at the United Nations" — Independent Expert Panel Report, an initiative by Australia, Mexico, Nigeria, Peru, Poland, Saudi Arabia, South Africa, Switzerland and Thailand (August 2014), available from http://newyorkun.mfa.gov.pl/resource/41dff8b4-6fdb-4688-8699-72496385ed8c:JCR.

24. The Secretary-General reiterates that OHCHR is part of the Secretariat, as are its staff members, and that as such both the Office and its staff members are subject to the same human resources regulations, rules and policies as the other departments, offices and staff members of the Secretariat. Such regulations, rules and policies cannot be amended specific to any individual department or office, and thus it would be difficult to conceive of any comprehensive strategy that would lead to an OHCHR-specific change in the applicable Secretariat human resources management strategy or policies.

25. The General Assembly would have to approve any initiative to deviate from or otherwise revise the human resources policies and strategies of the Secretariat. The Secretary-General reiterates, in that regard, that the Fifth Committee is the appropriate Main Committee of the Assembly entrusted with responsibility for administrative and budgetary matters, as reaffirmed by the Assembly in its resolution 45/248 B (sect. VI, para. 1).

26. Nevertheless, the Secretary-General acknowledges the need to take into account the specific human resources challenges of OHCHR, in particular the need to mobilize staff members on short notice to respond to emergencies and/or time-bound mandated activities. In that regard, OHCHR should pursue a dialogue with the Office of Human Resources Management, with a view to determining the modalities to adapt to those specific challenges.

Recommendation 6: The Secretary-General should, in the context of the Human Rights Up Front initiative, review, in consultation with the United Nations System Chief Executives Board for Coordination as appropriate, the mandates, activities and work of different entities with human rights mandates with a view to streamlining their work, mainstreaming human rights across the United Nations system and enhancing synergies. The results of the review should be submitted, along with the Secretary-General's own recommendations, to the General Assembly for consideration at its seventy-first session.

27. The Secretary-General considers the recommendation for a review of the mandates, activities and work of different entities with human rights mandates a good opportunity to strengthen the capacity of the United Nations system to implement the responsibilities mandated by Member States. In that context, in resolution 48/141, in particular paragraphs 4 (i) and (j), the General Assembly called upon the United Nations High Commissioner for Human Rights to coordinate the human rights promotion and protection activities throughout the United Nations system and to rationalize, adapt, strengthen and streamline the United Nations machinery in the field of human rights with a view to improving its efficiency and effectiveness.